

(2) by adding at the end the following:

**"SEC. 1638. HAWAII RECLAMATION PROJECTS.**

"(a) AUTHORIZATION.—The Secretary may—

"(1) in cooperation with the Board of Water Supply, City and County of Honolulu, Hawaii, participate in the design, planning, and construction of a project in Kalaeloa, Hawaii, to desalinate and distribute seawater for direct potable use within the service area of the Board;

"(2) in cooperation with the County of Hawaii Department of Environmental Management, Hawaii, participate in the design, planning, and construction of facilities in Kealahou, Hawaii, for the treatment and distribution of recycled water and for environmental purposes within the County; and

"(3) in cooperation with the County of Maui Wastewater Reclamation Division, Hawaii, participate in the design, planning, and construction of, and acquire land for, facilities in Lahaina, Hawaii, for the distribution of recycled water from the Lahaina Wastewater Reclamation Facility for non-potable uses within the County.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—Funds provided by the Secretary shall not be used for the operation and maintenance of a project described in subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section."

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) is amended by striking the item relating to the second section 1636 (as added by section 2 of Public Law 108-316 (118 Stat. 1202)) and inserting the following:

"Sec. 1637. Williamson County, Texas, Water Recycling and Reuse Project.

"Sec. 1638. Hawaii reclamation projects."

**CARIBBEAN NATIONAL FOREST  
ACT OF 2005**

The Senate proceeded to consider the bill (S. 272) to designate certain National Forest System land in the Commonwealth of Puerto Rico as a component of the National Wilderness Preservation System, which had been reported from the Committee on Energy and Natural Resources, with amendments and an amendment to the title, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 272

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Caribbean National Forest Act of 2005".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) MAP.—The term "map" means the map dated April 13, [2004] 2004, and entitled "El Toro Proposed Wilderness Area".

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

**SEC. 3. WILDERNESS DESIGNATION, CARIBBEAN NATIONAL FOREST, PUERTO RICO.**

(a) EL TORO WILDERNESS.—

(1) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. [1131]

1131 et seq.), the approximately 10,000 acres of land in the Caribbean National Forest/Luquillo Experimental Forest in the Commonwealth of Puerto Rico [described in] as generally depicted on the map are designated as wilderness and as a component of the National Wilderness Preservation System.

(2) DESIGNATION.—The land designated in paragraph (1) shall be known as the El Toro Wilderness.

(3) WILDERNESS BOUNDARIES.—The El Toro Wilderness shall consist of the land [described in] generally depicted on the map.

(b) MAP AND BOUNDARY DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall—

(A) prepare a boundary description of the El Toro Wilderness; and

(B) submit the map and the boundary description to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(2) PUBLIC INSPECTION AND TREATMENT.—The map and the boundary description prepared under paragraph (1)(A)—

(A) shall be on file and available for public inspection in the office of the Chief of the Forest Service; and

(B) shall have the same force and effect as if included in this Act.

(3) ERRORS.—The Secretary may correct clerical and typographical errors in the map and the boundary description prepared under paragraph (1)(A).

(c) ADMINISTRATION.—

(1) IN GENERAL.—Subject to valid existing rights, the Secretary shall administer the El Toro Wilderness in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act.

(2) EFFECTIVE DATE OF WILDERNESS ACT.—With respect to the El Toro Wilderness, any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the effective date of that Act shall be deemed to be a reference to the date of the enactment of this Act.

(d) SPECIAL MANAGEMENT CONSIDERATIONS.—Consistent with the Wilderness Act (16 U.S.C. 1131 et seq.), nothing in this Act precludes the installation and maintenance of hydrologic, meteorological, climatological, or atmospheric data collection and remote transmission facilities, or any combination of those facilities, in any case in which the Secretary determines that the facilities are essential to the scientific research purposes of the Luquillo Experimental Forest.

Amend the title so as to read: "A bill to designate certain National Forest System land in the Commonwealth of Puerto Rico as a component of the National Wilderness Preservation System."

The committee amendments were agreed to.

The amendment to the title was agreed to.

The bill (S. 272), as amended, was agreed to, as follows:

S. 272

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Caribbean National Forest Act of 2005".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) MAP.—The term "map" means the map dated April 13, 2004, and entitled "El Toro Proposed Wilderness Area".

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

**SEC. 3. WILDERNESS DESIGNATION, CARIBBEAN NATIONAL FOREST, PUERTO RICO.**

(a) EL TORO WILDERNESS.—

(1) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the approximately 10,000 acres of land in the Caribbean National Forest/Luquillo Experimental Forest in the Commonwealth of Puerto Rico as generally depicted on the map are designated as wilderness and as a component of the National Wilderness Preservation System.

(2) DESIGNATION.—The land designated in paragraph (1) shall be known as the El Toro Wilderness.

(3) WILDERNESS BOUNDARIES.—The El Toro Wilderness shall consist of the land generally depicted on the map.

(b) MAP AND BOUNDARY DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall—

(A) prepare a boundary description of the El Toro Wilderness; and

(B) submit the map and the boundary description to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(2) PUBLIC INSPECTION AND TREATMENT.—The map and the boundary description prepared under paragraph (1)(A)—

(A) shall be on file and available for public inspection in the office of the Chief of the Forest Service; and

(B) shall have the same force and effect as if included in this Act.

(3) ERRORS.—The Secretary may correct clerical and typographical errors in the map and the boundary description prepared under paragraph (1)(A).

(c) ADMINISTRATION.—

(1) IN GENERAL.—Subject to valid existing rights, the Secretary shall administer the El Toro Wilderness in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act.

(2) EFFECTIVE DATE OF WILDERNESS ACT.—With respect to the El Toro Wilderness, any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the effective date of that Act shall be deemed to be a reference to the date of the enactment of this Act.

(d) SPECIAL MANAGEMENT CONSIDERATIONS.—Consistent with the Wilderness Act (16 U.S.C. 1131 et seq.), nothing in this Act precludes the installation and maintenance of hydrologic, meteorological, climatological, or atmospheric data collection and remote transmission facilities, or any combination of those facilities, in any case in which the Secretary determines that the facilities are essential to the scientific research purposes of the Luquillo Experimental Forest.

**PALEONTOLOGICAL RESOURCES  
PRESERVATION ACT**

The Senate proceeded to consider the bill (S. 263) to provide for the protection of paleontological resources on Federal lands, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 263

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Paleontological Resources Preservation Act".

**SEC. 2. DEFINITIONS.**

As used in this Act:

(1) **CASUAL COLLECTING.**—The term “casual collecting” means the collecting of a reasonable amount of common invertebrate and plant paleontological resources for non-commercial personal use, either by surface collection or the use of non-powered hand tools resulting in only negligible disturbance to the Earth’s surface and other resources. As used in this paragraph, the terms “reasonable amount”, “common invertebrate and plant paleontological resources” and “negligible disturbance” shall be determined by the Secretary.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior with respect to lands controlled or administered by the Secretary of the Interior or the Secretary of Agriculture with respect to National Forest System Lands controlled or administered by the Secretary of Agriculture.

(3) **FEDERAL LANDS.**—The term “Federal lands” means—

(A) lands controlled or administered by the Secretary of the Interior, except Indian lands; or

(B) National Forest System lands controlled or administered by the Secretary of Agriculture.

(4) **INDIAN LANDS.**—The term “Indian Land” means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States.

(5) **STATE.**—The term “State” means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(6) **PALEONTOLOGICAL RESOURCE.**—The term “paleontological resource” means any fossilized remains, traces, or imprints of organisms, preserved in or on the earth’s crust, that are of paleontological interest and that provide information about the history of life on earth, except that the term does not include—

(A) any materials associated with an archaeological resource (as defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)); or

(B) any cultural item (as defined in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)).

### SEC. 3. MANAGEMENT.

(a) **IN GENERAL.**—The Secretary shall manage and protect paleontological resources on Federal lands using scientific principles and expertise. The Secretary shall develop appropriate plans for inventory, monitoring, and the scientific and educational use of paleontological resources, in accordance with applicable agency laws, regulations, and policies. These plans shall emphasize interagency coordination and collaborative efforts where possible with non-Federal partners, the scientific community, and the general public.

(b) **COORDINATION.**—To the extent possible, the Secretary of the Interior and the Secretary of Agriculture shall coordinate in the implementation of this Act.

### SEC. 4. PUBLIC AWARENESS AND EDUCATION PROGRAM.

The Secretary shall establish a program to increase public awareness about the significance of paleontological resources.

### SEC. 5. COLLECTION OF PALEONTOLOGICAL RESOURCES.

(a) **PERMIT REQUIREMENT.**—

(1) **IN GENERAL.**—Except as provided in this Act, a paleontological resource may not be collected from Federal lands without a permit issued under this Act by the Secretary.

(2) **CASUAL COLLECTING EXCEPTION.**—The Secretary may allow casual collecting without a permit on Federal lands controlled or

administered by the Bureau of Land Management, the Bureau of Reclamation, and the Forest Service, where such collection is consistent with the laws governing the management of those Federal lands and this Act.

(3) **PREVIOUS PERMIT EXCEPTION.**—Nothing in this section shall affect a valid permit issued prior to the date of enactment of this Act.

(b) **CRITERIA FOR ISSUANCE OF A PERMIT.**—The Secretary may issue a permit for the collection of a paleontological resource pursuant to an application if the Secretary determines that—

(1) the applicant is qualified to carry out the permitted activity;

(2) the permitted activity is undertaken for the purpose of furthering paleontological knowledge or for public education;

(3) the permitted activity is consistent with any management plan applicable to the Federal lands concerned; and

(4) the proposed methods of collecting will not threaten significant natural or cultural resources.

(c) **PERMIT SPECIFICATIONS.**—A permit for the collection of a paleontological resource issued under this section shall contain such terms and conditions as the Secretary deems necessary to carry out the purposes of this Act. Every permit shall include requirements that—

(1) the paleontological resource that is collected from Federal lands under the permit will remain the property of the United States;

(2) the paleontological resource and copies of associated records will be preserved for the public in an approved repository, to be made available for scientific research and public education; and

(3) specific locality data will not be released by the permittee or repository without the written permission of the Secretary.

(d) **MODIFICATION, SUSPENSION, AND REVOCATION OF PERMITS.**—

(1) The Secretary may modify, suspend, or revoke a permit issued under this section—

(A) for resource, safety, or other management considerations; or

(B) when there is a violation of term or condition of a permit issued pursuant to this section.

(2) The permit shall be revoked if any person working under the authority of the permit is convicted under [section 9] section 7 or is assessed a civil penalty under [section 10] section 8.

(e) **AREA CLOSURES.**—In order to protect paleontological or other resources and to provide for public safety, the Secretary may restrict access to or close areas under the Secretary’s jurisdiction to the collection of paleontological resources.

### SEC. 6. CURATION OF RESOURCES.

Any paleontological resource, and any data and records associated with the resource, collected under a permit, shall be deposited in an approved repository. The Secretary may enter into agreements with non-Federal repositories regarding the curation of these resources, data, and records.

### SEC. 7. PROHIBITED ACTS; CRIMINAL PENALTIES.

(a) **IN GENERAL.**—A person may not—

(1) excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any paleontological resources located on Federal lands unless such activity is conducted in accordance with this Act;

(2) exchange, transport, export, receive, or offer to exchange, transport, export, or receive any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated or removed from Federal lands in violation of any provisions, rule,

regulation, law, ordinance, or permit in effect under Federal law, including this Act; or

(3) sell or purchase or offer to sell or purchase any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated, removed, sold, purchased, exchanged, transported, or received from Federal lands.

(b) **FALSE LABELING OFFENSES.**—A person may not make or submit any false record, account, or label for, or any false identification of, any paleontological resource excavated or removed from Federal lands.

(c) **PENALTIES.**—A person who knowingly violates or counsels, procures, solicits, or employs another person to violate subsection (a) or (b) shall, upon conviction, be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both; but if the sum of the commercial and paleontological value of the paleontological resources involved and the cost of restoration and repair of such resources does not exceed \$500, such person shall be fined in accordance with title 18, United States Code, or imprisoned not more than one year, or both.

(d) **GENERAL EXCEPTION.**—Nothing in subsection (a) shall apply to any person with respect to any paleontological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.

### SEC. 8. CIVIL PENALTIES.

(a) **IN GENERAL.**—

(1) **HEARING.**—A person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a penalty by the Secretary after the person is given notice and opportunity for a hearing with respect to the violation. Each violation shall be considered a separate offense for purposes of this section.

(2) **AMOUNT OF PENALTY.**—The amount of such penalty assessed under paragraph (1) shall be determined under regulations promulgated pursuant to this Act, taking into account the following factors:

(A) The scientific or fair market value, whichever is greater, of the paleontological resource involved, as determined by the Secretary.

(B) The cost of response, restoration, and repair of the resource and the paleontological site involved.

(C) Any other factors considered relevant by the Secretary assessing the penalty.

(3) **MULTIPLE OFFENSES.**—In the case of a second or subsequent violation by the same person, the amount of a penalty assessed under paragraph (2) may be doubled.

(4) **LIMITATION.**—The amount of any penalty assessed under this subsection for any one violation shall not exceed an amount equal to double the cost of response, restoration, and repair of resources and paleontological site damage plus double the scientific or fair market value of resources destroyed or not recovered.

(b) **PETITION FOR JUDICIAL REVIEW; COLLECTION OF UNPAID ASSESSMENTS.**—

(1) **JUDICIAL REVIEW.**—Any person against whom an order is issued assessing a penalty under subsection (a) may file a petition for judicial review of the order in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred within the 30-day period beginning on the date the order making the assessment was issued. Upon notice of such filing, the Secretary shall promptly file such a certified copy of the record on which the order was issued. The court shall hear the action on the record made before the Secretary and shall sustain the action if it is supported by substantial evidence on the record considered as a whole.

(2) FAILURE TO PAY.—If any person fails to pay a penalty under this section within 30 days—

(A) after the order making assessment has become final and the person has not filed a petition for judicial review of the order in accordance with paragraph (1); or

(B) after a court in an action brought in paragraph (1) has entered a final judgment upholding the assessment of the penalty, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which the person if found, resides, or transacts business, to collect the penalty (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). The district court shall have jurisdiction to hear and decide any such action. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings.

(c) HEARINGS.—Hearings held during proceedings instituted under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code.

(d) USE OF RECOVERED AMOUNTS.—Penalties collected under this section shall be available to the Secretary and without further appropriation may be used only as follows:

(1) To protect, restore, or repair the paleontological resources and sites which were the subject of the action, or to acquire sites with equivalent resources, and to protect, monitor, and study the resources and sites. Any acquisition shall be subject to any limitations contained in the organic legislation for such Federal lands.

(2) To provide educational materials to the public about paleontological resources and sites.

(3) To provide for the payment of rewards as provided in [section 11] section 9.

#### SEC. 9. REWARDS AND FORFEITURE.

(a) REWARDS.—The Secretary may pay from penalties collected under [section 9 or 10] section 7 or 8—

(1) consistent with amounts established in regulations by the Secretary; or

(2) if no such regulation exists, an amount equal to the lesser of one-half of the penalty or \$500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which the penalty was paid. If several persons provided the information, the amount shall be divided among the persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) FORFEITURE.—All paleontological resources with respect to which a violation under [section 9 or 10] section 7 or 8 occurred and which are in the possession of any person, and all vehicles and equipment of any person that were used in connection with the violation, shall be subject to civil forfeiture, or upon conviction, to criminal forfeiture. All provisions of law relating to the seizure, forfeiture, and condemnation of property for a violation of this Act, the disposition of such property or the proceeds from the sale thereof, and remission or mitigation of such forfeiture, as well as the procedural provisions of chapter 46 of title 18, United States Code, shall apply to the seizures and forfeitures incurred or alleged to have incurred under the provisions of this Act.

(c) TRANSFER OF SEIZED RESOURCES.—The Secretary may transfer administration of seized paleontological resources to Federal or non-Federal educational institutions to be used for scientific or educational purposes.

#### SEC. 10. CONFIDENTIALITY.

Information concerning the nature and specific location of a paleontological resource the collection of which requires a permit under this Act or under any other provision of Federal law shall be exempt from disclosure under section 552 of title 5, United States Code, and any other law unless the Secretary determines that disclosure would—

(1) further the purposes of this Act;

(2) not create risk of harm to or theft or destruction of the resource or the site containing the resource; and

(3) be in accordance with other applicable laws.

#### SEC. 11. REGULATIONS.

As soon as practical after the date of the enactment of this Act, the Secretary shall issue such regulations as are appropriate to carry out this Act, providing opportunities for public notice and comment.

#### SEC. 12. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to—

(1) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under the general mining laws, the mineral or geothermal leasing laws, laws providing for minerals materials disposal, or laws providing for the management or regulation of the activities authorized by the aforementioned laws including but not limited to the Federal Land Policy Management Act (43 U.S.C. 1701–1784), [the Mining in the Parks Act] *Public Law 94–429 (commonly known as the “Mining in the Parks Act”)* (16 U.S.C. 1901 *et seq.*), the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201–1358), and the Organic Administration Act (16 U.S.C. 478, 482, 551);

(2) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under existing laws and authorities relating to reclamation and multiple uses of Federal lands;

(3) apply to, or require a permit for, casual collecting of a rock, mineral, or invertebrate or plant fossil that is not protected under this Act;

(4) affect any lands other than Federal lands or affect the lawful recovery, collection, or sale of paleontological resources from lands other than Federal lands;

(5) alter or diminish the authority of a Federal agency under any other law to provide protection for paleontological resources on Federal lands in addition to the protection provided under this Act; or

(6) create any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in that capacity. No person who is not an officer or employee of the United States acting in that capacity shall have standing to file any civil action in a court of the United States to enforce any provision or amendment made by this Act.

#### SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The committee amendments were agreed to.

The bill (S. 263), as amended, was read the third time and passed, as follows:

S. 263

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Paleontological Resources Preservation Act”.

#### SEC. 2. DEFINITIONS.

As used in this Act:

(1) CASUAL COLLECTING.—The term “casual collecting” means the collecting of a reasonable amount of common invertebrate and plant paleontological resources for non-commercial personal use, either by surface collection or the use of non-powered hand tools resulting in only negligible disturbance to the Earth’s surface and other resources. As used in this paragraph, the terms “reasonable amount”, “common invertebrate and plant paleontological resources” and “negligible disturbance” shall be determined by the Secretary.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior with respect to lands controlled or administered by the Secretary of the Interior or the Secretary of Agriculture with respect to National Forest System Lands controlled or administered by the Secretary of Agriculture.

(3) FEDERAL LANDS.—The term “Federal lands” means—

(A) lands controlled or administered by the Secretary of the Interior, except Indian lands; or

(B) National Forest System lands controlled or administered by the Secretary of Agriculture.

(4) INDIAN LANDS.—The term “Indian Land” means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States.

(5) STATE.—The term “State” means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(6) PALEONTOLOGICAL RESOURCE.—The term “paleontological resource” means any fossilized remains, traces, or imprints of organisms, preserved in or on the earth’s crust, that are of paleontological interest and that provide information about the history of life on earth, except that the term does not include—

(A) any materials associated with an archaeological resource (as defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)); or

(B) any cultural item (as defined in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)).

#### SEC. 3. MANAGEMENT.

(a) IN GENERAL.—The Secretary shall manage and protect paleontological resources on Federal lands using scientific principles and expertise. The Secretary shall develop appropriate plans for inventory, monitoring, and the scientific and educational use of paleontological resources, in accordance with applicable agency laws, regulations, and policies. These plans shall emphasize inter-agency coordination and collaborative efforts where possible with non-Federal partners, the scientific community, and the general public.

(b) COORDINATION.—To the extent possible, the Secretary of the Interior and the Secretary of Agriculture shall coordinate in the implementation of this Act.

#### SEC. 4. PUBLIC AWARENESS AND EDUCATION PROGRAM.

The Secretary shall establish a program to increase public awareness about the significance of paleontological resources.

#### SEC. 5. COLLECTION OF PALEONTOLOGICAL RESOURCES.

(a) PERMIT REQUIREMENT.—

(1) IN GENERAL.—Except as provided in this Act, a paleontological resource may not be

collected from Federal lands without a permit issued under this Act by the Secretary.

(2) **CASUAL COLLECTING EXCEPTION.**—The Secretary may allow casual collecting without a permit on Federal lands controlled or administered by the Bureau of Land Management, the Bureau of Reclamation, and the Forest Service, where such collection is consistent with the laws governing the management of those Federal lands and this Act.

(3) **PREVIOUS PERMIT EXCEPTION.**—Nothing in this section shall affect a valid permit issued prior to the date of enactment of this Act.

(b) **CRITERIA FOR ISSUANCE OF A PERMIT.**—The Secretary may issue a permit for the collection of a paleontological resource pursuant to an application if the Secretary determines that—

(1) the applicant is qualified to carry out the permitted activity;

(2) the permitted activity is undertaken for the purpose of furthering paleontological knowledge or for public education;

(3) the permitted activity is consistent with any management plan applicable to the Federal lands concerned; and

(4) the proposed methods of collecting will not threaten significant natural or cultural resources.

(c) **PERMIT SPECIFICATIONS.**—A permit for the collection of a paleontological resource issued under this section shall contain such terms and conditions as the Secretary deems necessary to carry out the purposes of this Act. Every permit shall include requirements that—

(1) the paleontological resource that is collected from Federal lands under the permit will remain the property of the United States;

(2) the paleontological resource and copies of associated records will be preserved for the public in an approved repository, to be made available for scientific research and public education; and

(3) specific locality data will not be released by the permittee or repository without the written permission of the Secretary.

(d) **MODIFICATION, SUSPENSION, AND REVOCATION OF PERMITS.**—

(1) The Secretary may modify, suspend, or revoke a permit issued under this section—

(A) for resource, safety, or other management considerations; or

(B) when there is a violation of term or condition of a permit issued pursuant to this section.

(2) The permit shall be revoked if any person working under the authority of the permit is convicted under section 7 or is assessed a civil penalty under section 8.

(e) **AREA CLOSURES.**—In order to protect paleontological or other resources and to provide for public safety, the Secretary may restrict access to or close areas under the Secretary's jurisdiction to the collection of paleontological resources.

#### SEC. 6. CURATION OF RESOURCES.

Any paleontological resource, and any data and records associated with the resource, collected under a permit, shall be deposited in an approved repository. The Secretary may enter into agreements with non-Federal repositories regarding the curation of these resources, data, and records.

#### SEC. 7. PROHIBITED ACTS; CRIMINAL PENALTIES.

(a) **IN GENERAL.**—A person may not—

(1) excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any paleontological resources located on Federal lands unless such activity is conducted in accordance with this Act;

(2) exchange, transport, export, receive, or offer to exchange, transport, export, or receive any paleontological resource if, in the

exercise of due care, the person knew or should have known such resource to have been excavated or removed from Federal lands in violation of any provisions, rule, regulation, law, ordinance, or permit in effect under Federal law, including this Act; or

(3) sell or purchase or offer to sell or purchase any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated, removed, sold, purchased, exchanged, transported, or received from Federal lands.

(b) **FALSE LABELING OFFENSES.**—A person may not make or submit any false record, account, or label for, or any false identification of, any paleontological resource excavated or removed from Federal lands.

(c) **PENALTIES.**—A person who knowingly violates or counsels, procures, solicits, or employs another person to violate subsection (a) or (b) shall, upon conviction, be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both; but if the sum of the commercial and paleontological value of the paleontological resources involved and the cost of restoration and repair of such resources does not exceed \$500, such person shall be fined in accordance with title 18, United States Code, or imprisoned not more than one year, or both.

(d) **GENERAL EXCEPTION.**—Nothing in subsection (a) shall apply to any person with respect to any paleontological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.

#### SEC. 8. CIVIL PENALTIES.

(a) **IN GENERAL.**—

(1) **HEARING.**—A person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a penalty by the Secretary after the person is given notice and opportunity for a hearing with respect to the violation. Each violation shall be considered a separate offense for purposes of this section.

(2) **AMOUNT OF PENALTY.**—The amount of such penalty assessed under paragraph (1) shall be determined under regulations promulgated pursuant to this Act, taking into account the following factors:

(A) The scientific or fair market value, whichever is greater, of the paleontological resource involved, as determined by the Secretary.

(B) The cost of response, restoration, and repair of the resource and the paleontological site involved.

(C) Any other factors considered relevant by the Secretary assessing the penalty.

(3) **MULTIPLE OFFENSES.**—In the case of a second or subsequent violation by the same person, the amount of a penalty assessed under paragraph (2) may be doubled.

(4) **LIMITATION.**—The amount of any penalty assessed under this subsection for any one violation shall not exceed an amount equal to double the cost of response, restoration, and repair of resources and paleontological site damage plus double the scientific or fair market value of resources destroyed or not recovered.

(b) **PETITION FOR JUDICIAL REVIEW; COLLECTION OF UNPAID ASSESSMENTS.**—

(1) **JUDICIAL REVIEW.**—Any person against whom an order is issued assessing a penalty under subsection (a) may file a petition for judicial review of the order in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred within the 30-day period beginning on the date the order making the assessment was issued. Upon notice of such filing, the Secretary shall promptly file such a certified copy of the

record on which the order was issued. The court shall hear the action on the record made before the Secretary and shall sustain the action if it is supported by substantial evidence on the record considered as a whole.

(2) **FAILURE TO PAY.**—If any person fails to pay a penalty under this section within 30 days—

(A) after the order making assessment has become final and the person has not filed a petition for judicial review of the order in accordance with paragraph (1); or

(B) after a court in an action brought in paragraph (1) has entered a final judgment upholding the assessment of the penalty, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which the person if found, resides, or transacts business, to collect the penalty (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). The district court shall have jurisdiction to hear and decide any such action. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings.

(c) **HEARINGS.**—Hearings held during proceedings instituted under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code.

(d) **USE OF RECOVERED AMOUNTS.**—Penalties collected under this section shall be available to the Secretary and without further appropriation may be used only as follows:

(1) To protect, restore, or repair the paleontological resources and sites which were the subject of the action, or to acquire sites with equivalent resources, and to protect, monitor, and study the resources and sites. Any acquisition shall be subject to any limitations contained in the organic legislation for such Federal lands.

(2) To provide educational materials to the public about paleontological resources and sites.

(3) To provide for the payment of rewards as provided in section 9.

#### SEC. 9. REWARDS AND FORFEITURE.

(a) **REWARDS.**—The Secretary may pay from penalties collected under section 7 or 8—

(1) consistent with amounts established in regulations by the Secretary; or

(2) if no such regulation exists, an amount equal to the lesser of one-half of the penalty or \$500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which the penalty was paid. If several persons provided the information, the amount shall be divided among the persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) **FORFEITURE.**—All paleontological resources with respect to which a violation under section 7 or 8 occurred and which are in the possession of any person, and all vehicles and equipment of any person that were used in connection with the violation, shall be subject to civil forfeiture, or upon conviction, to criminal forfeiture. All provisions of law relating to the seizure, forfeiture, and condemnation of property for a violation of this Act, the disposition of such property or the proceeds from the sale thereof, and remission or mitigation of such forfeiture, as

well as the procedural provisions of chapter 46 of title 18, United States Code, shall apply to the seizures and forfeitures incurred or alleged to have incurred under the provisions of this Act.

(c) **TRANSFER OF SEIZED RESOURCES.**—The Secretary may transfer administration of seized paleontological resources to Federal or non-Federal educational institutions to be used for scientific or educational purposes.

#### SEC. 10. CONFIDENTIALITY.

Information concerning the nature and specific location of a paleontological resource the collection of which requires a permit under this Act or under any other provision of Federal law shall be exempt from disclosure under section 552 of title 5, United States Code, and any other law unless the Secretary determines that disclosure would—

- (1) further the purposes of this Act;
- (2) not create risk of harm to or theft or destruction of the resource or the site containing the resource; and
- (3) be in accordance with other applicable laws.

#### SEC. 11. REGULATIONS.

As soon as practical after the date of the enactment of this Act, the Secretary shall issue such regulations as are appropriate to carry out this Act, providing opportunities for public notice and comment.

#### SEC. 12. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to—

- (1) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under the general mining laws, the mineral or geothermal leasing laws, laws providing for minerals materials disposal, or laws providing for the management or regulation of the activities authorized by the aforementioned laws including but not limited to the Federal Land Policy Management Act (43 U.S.C. 1701–1784), Public Law 94–429 (commonly known as the “Mining in the Parks Act”) (16 U.S.C. 1901 et seq.), the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201–1358), and the Organic Administration Act (16 U.S.C. 478, 482, 551);
- (2) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under existing laws and authorities relating to reclamation and multiple uses of Federal lands;
- (3) apply to, or require a permit for, casual collecting of a rock, mineral, or invertebrate or plant fossil that is not protected under this Act;
- (4) affect any lands other than Federal lands or affect the lawful recovery, collection, or sale of paleontological resources from lands other than Federal lands;
- (5) alter or diminish the authority of a Federal agency under any other law to provide protection for paleontological resources on Federal lands in addition to the protection provided under this Act; or
- (6) create any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in that capacity. No person who is not an officer or employee of the United States acting in that capacity shall have standing to file any civil action in a court of the United States to enforce any provision or amendment made by this Act.

(4) affect any lands other than Federal lands or affect the lawful recovery, collection, or sale of paleontological resources from lands other than Federal lands;

(5) alter or diminish the authority of a Federal agency under any other law to provide protection for paleontological resources on Federal lands in addition to the protection provided under this Act; or

(6) create any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in that capacity. No person who is not an officer or employee of the United States acting in that capacity shall have standing to file any civil action in a court of the United States to enforce any provision or amendment made by this Act.

(5) alter or diminish the authority of a Federal agency under any other law to provide protection for paleontological resources on Federal lands in addition to the protection provided under this Act; or

(6) create any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in that capacity. No person who is not an officer or employee of the United States acting in that capacity shall have standing to file any civil action in a court of the United States to enforce any provision or amendment made by this Act.

#### SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

#### BIG HORN BENTONITE ACT

The bill (S. 97) to provide for the sale of bentonite in Big Horn County, Wyo-

ming, was read the third time and passed; as follows:

S. 97

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Big Horn Bentonite Act”.

#### SEC. 2. DEFINITIONS.

In this Act:

(1) **COVERED LAND.**—The term “covered land” means the approximately 20 acres of previously withdrawn land located in the E½ NE¼ SE¼ of sec. 32, T. 56N., R. 95W., sixth principal meridian, Big Horn County, Wyoming.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

#### SEC. 3. AUTHORIZATION OF MINING AND REMOVAL OF BENTONITE.

(a) **IN GENERAL.**—Notwithstanding the withdrawal of the covered land for military purposes, the Secretary may, with the consent of the Secretary of the Army, permit the mining and removal of bentonite on the covered land.

(b) **SOLE-SOURCE CONTRACT.**—The Secretary shall enter into a sole-source contract for the mining and removal of the bentonite from the covered land that provides for the payment to the Secretary of \$1.00 per ton of bentonite removed from the covered land.

#### (c) TERMS AND CONDITIONS.—

(1) **IN GENERAL.**—Mining and removal of bentonite under this Act shall be subject to such terms and conditions as the Secretary may prescribe for—

(A) the prevention of unnecessary or undue degradation of the covered land; and

(B) the reclamation of the covered land after the bentonite is removed.

(2) **REQUIREMENTS.**—The terms and conditions prescribed under paragraph (1) shall be at least as protective of the covered land as the terms and conditions established for Pit No. 144L (BLM Case File WYW136110).

(3) **LAND USE PLAN.**—In carrying out the provisions of this Act, the Secretary is not required to amend any land use plan under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(4) **TERMINATION OF INTEREST.**—On completion of the mining and reclamation authorized under this Act, any party that has entered into the sole-source contract with the Secretary under subsection (b) shall have no remaining interest in the covered land.

#### SEC. 4. CLOSURE.

(a) **IN GENERAL.**—If the Secretary of the Army notifies the Secretary that closure of the covered land is required because of a national emergency or for the purpose of national defense or national security, the Secretary shall—

(1) order the suspension of any activity authorized by this Act on the covered land; and

(2) close the covered land until the Secretary of the Army notifies the Secretary that the closure is no longer necessary.

(b) **LIABILITY.**—Neither the Secretary nor the Secretary of the Army shall be liable for damages from a closure of the covered land under subsection (a).

#### DANDINI RESEARCH PARK CONVEYANCE ACT

The bill (S. 252) to direct the Secretary of the Interior to convey certain land in Washoe County, Nevada, to the Board of Regents of the University and Community College system of Nevada, was read the third time and passed, as follows:

S. 252

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Dandini Research Park Conveyance Act”.

#### SEC. 2. DEFINITIONS.

In this Act:

(1) **BOARD OF REGENTS.**—The term “Board of Regents” means the Board of Regents of the University and Community College System of Nevada.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

#### SEC. 3. CONVEYANCE TO THE UNIVERSITY AND COMMUNITY COLLEGE SYSTEM OF NEVADA.

(a) **CONVEYANCE.**—

(1) **IN GENERAL.**—The Secretary shall convey to the Board of Regents, without consideration, all right, title, and interest of the United States in and to the approximately 467 acres of land located in Washoe County, Nevada, patented to the University of Nevada under the Act of June 14, 1926 (commonly known as the “Recreation and Public Purposes Act”) (43 U.S.C. 869 et seq.), and described in paragraph (2).

(2) **DESCRIPTION OF LAND.**—The land referred to in paragraph (1) is—

(A) the parcel of land consisting of approximately 309.11 acres and more particularly described as T. 20 N., R. 19 E., Sec. 25, lots 1, 2, 3, 4, 5, and 11, SE¼NW¼, NE¼SW¼, Mount Diablo Meridian, Nevada; and

(B) the parcel of land consisting of approximately 158.22 acres and more particularly described as T. 20 N., R. 19 E., Sec. 25, lots 6 and 7, SW¼NE¼, NW¼SE¼, Mount Diablo Meridian, Nevada.

(b) **COSTS.**—The Board of Regents shall pay to the United States an amount equal to the costs of the Secretary associated with the conveyance under subsection (a)(1).

(c) **CONDITIONS.**—If the Board of Regents sells any portion of the land conveyed to the Board of Regents under subsection (a)(1)—

(1) the amount of consideration for the sale shall reflect fair market value, as determined by an appraisal; and

(2) the Board of Regents shall pay to the Secretary an amount equal to the net proceeds of the sale, for use by the Director of the Bureau of Land Management in the State of Nevada, without further appropriation.

#### EDWARD H. McDANIEL AMERICAN LEGION POST NO. 22 LAND CONVEYANCE ACT

The Senate proceeded to consider the bill (S. 253) to direct the Secretary of the Interior to convey certain land to the land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 253

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Edward H. McDaniel American Legion Post No. 22 Land Conveyance Act”.